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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/177,047 10/22/98 BRINKLEY

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FROST & JACOBS
2500 PNC CENTER
201 EAST FIFTH STREET
CINCINNATI OH 45202

PM92/0802

EXAMINER

WESSON, T

ART UNIT

PAPER NUMBER

3641

DATE MAILED:

08/02/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/177,047

Applicant(s)
Brinkley

Examiner
Theresa M. Wesson

Group Art Unit
3641



☒ Responsive to communication(s) filed on Oct 22, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-31 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-31 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Oct 22, 1998 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3641

1. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

It does not state whether the inventor is a sole or joint inventor of the invention claimed.

2. This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

3. The preliminary amendment filed October 22, 1998 proposes amendments to the specification, claims and drawings that do not comply with 37 CFR 1.121(b), which sets forth the manner of making amendments in reissue applications. Accordingly, the preliminary amendment was NOT entered. See MPEP 1453. A response to this Office Action to correctly amend the reissue application is required.

It is noted that although the preliminary amendment filed on October 22, 1998 was NOT entered into the application, the content of the amendment was considered and treated on the merits of the content of the amendment.

4. Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.121(b). See MPEP 1453.

Art Unit: 3641

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the ability of the "electrical circuit" to "display compass directions," as claimed in claim 31, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

6. Claim 24 is objected to because of the following informalities: In line 2 of claim 24, "direction" should be "direction." Appropriate correction is required.

7. Claims 1 through 31 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

8. Claims 28 through 30 are rejected under 35 U.S.C. 251 because the applicant presented claims for the first time that are distinct and separate from the claims of the patent and that are not directed to the same invention as that disclosed as being the invention in the original patent. *In re*

Art Unit: 3641

Amos, 953 F.2d 613, 618, 21 USPQ2d 1271, 1274 (Fed. Cir. 1991). See MPEP 1450 and 1412.01.

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sayre in view of Morris et al. Sayre discloses a firearm monitoring device for use with a firearm, the firearm being susceptible to recoil in a first direction when discharged (see column 2, lines 51-56 and Figures 1 and 3). The device has a sensor 2 configured to generate at least one first signal in response to substantially each discharge of the firearm and an electrical circuit 17,17A configured to receive the first signal generated by the sensor and generate a second signal 8 indicative of the number of firearm discharges (see column 2, lines 5-68 and Figures 1 through 3).

Sayre et al does not specifically disclose the utilization of an accelerometer to generate the signal in response to the discharge of the firearm. Morris et al teaches the utilization of an accelerometer configured to generate a signal in response to the discharge of a firearm, providing

Art Unit: 3641

the means to detect the utilization of the weapon or firearm (see column 2, lines 32-35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Morris et al on the device of Sayre and utilize an accelerometer for the generation of a signal in response to the discharge of a firearm, providing the means to detect the utilization of the firearm.

11. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sayre in view of Harthcock. Sayre discloses a firearm monitoring device for use with a firearm, the firearm being susceptible to recoil in a first direction when discharged (see column 2, lines 51-56 and Figures 1 and 3). The device has an inertia sensor 2 configured to generate at least one first signal in response to substantially each discharge of the firearm and an electrical circuit 17, 17A configured to receive the first signal generated by the sensor and generate a second signal 8 indicative of the number of firearm discharges (see column 2, lines 5-68 and Figures 1 through 3).

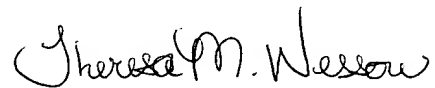
Sayre does not specifically disclose that the electrical circuit is configured to display compass directions. Harthcock teaches the utilization of an electrical circuit 31, 62 configured to display compass directions 77, providing muzzle-pointing azimuth direction (see column 6, lines 26-38 and Figures). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teachings of Harthcock on the device of Sayre and utilize an electrical circuit configured to display compass directions, providing muzzle-pointing azimuth direction.

Art Unit: 3641

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Martin is cited as of interest to show the utilization of accelerometers in firearm monitoring devices. The patent to Wright, Sr. et al is cited as of interest to show an electrical circuit that relates to the display of compass directions.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa M. Wesson whose telephone number is (703) 306-4176. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan, can be reached on (703) 306-4159.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.



TERESA M. WESSON
PATENT EXAMINER

Theresa M. Wesson

July 29, 1999